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SUBJECT: PAKISTAN ELECTIONS (2): THE BASICS

REF: ISLAMABAD [1]

Classified By: Charge d'Affaires Peter W. Bodde,
Reasons 1.4 (b) and (d)

¶1. (U) This cable, the second in a series of cables mapping the political terrain as Pakistan approaches nationwide elections in 2007, reviews the fundamentals of the Pakistani electoral system, as well as possible time lines for the sequencing of provincial, federal and presidential elections.

Subsequent installments in this series will focus on the state-of-play within the parties and electorate, whether President/General Musharraf will shed his uniform, Musharraf's coalition options and recommendations on how the U.S. can best promote credible and open elections.

Basics 101: Federal Parliament

¶2. (U) The Islamic Republic of Pakistan is governed by an elected bicameral federal parliament (Majlis-e-Shoora). An electoral college consisting of the federal parliament and provincial assemblies indirectly elects the president. The parliament consists of two houses: the National Assembly and the Senate.

¶3. (U) The National Assembly has 342 seats: 272 are "open" seats (normally contested and filled by Muslims), ten are reserved for non-Muslims and 60 for women. The President has the power to convene and dissolve the Assembly. In addition to adopting legislation through majority vote, the Assembly's key powers are electing the Prime Minister and approving the federal budget. In conjunction with the Senate, the Assembly has the power to approve amendments to the Constitution and to impeach the President; these actions require a 2/3 majority. Although the Constitution provides for the Assembly to serve a five-year term, no Pakistani parliament has ever served for the full mandate. The Assembly can be dissolved by the President on the advise of the Prime Minister or if the Prime Minister has lost a confidence vote by the Assembly and no other Assembly member appears able to form a government.

¶4. (U) The Senate has 100 members, 88 of whom are indirectly elected by the provincial assemblies. There are also four seats for Islamabad, which are elected by the National Assembly, and eight seats for the Federally Administered Tribal Areas (FATA), who are elected by the 12 FATA members of the National Assembly. Constitution envisions the Senate as a permanent body, with one-half of the members standing for election every three years. (Note: As an expanded Senate only came into being in 2003, the house held a one-time lottery in March 2007 to determine which senators would "retire" and have to run for re-election. End note.) Although Senate approval is necessary for a bill to become law, the Senate wields less power than the Assembly. For example, it has only an advisory role on the federal budget.

Basics 102: The Presidency

¶5. (U) Pakistan's constitution provide for indirect election of the President via an electoral college consisting of the members of the Senate, National Assembly and the four Provincial Assemblies. Powers of the Presidency include dissolution of the National Assembly and convening the National Assembly and the Senate. The President appoints top military, judicial and administrative offices, as well as the governorships of the four provinces. The President also has powers to pardon. If the office of the President becomes vacant by reason of death, resignation or removal from office, the Chairman of the Senate and the Speaker of the National Assembly are the first and second in the line of succession.

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¶6. (SBU) After General Musharraf assumed power in October 1999, he enacted a series of laws amending the powers of the presidency and parliament, rescinding some constitutional provisions adopted during the regimes of General Zia, Nawaz Sharif and Benazir Bhutto. On April 30, 2002, a national referendum was held on whether Pakistani citizens wished to "elect President General Pervez Musharraf as president of Pakistan for five years?" The Chief Election Commissioner declared that more than 90 percent of voters favored Musharraf. On August 21, 2002, Musharraf signed an executive order known as the Legal Framework Order (LFO). The LFO amended the (pre-Zia) 1973 Constitution, restoring the President's power to dissolve the National Assembly, increasing the number of Assembly and Senate seats and establishing a National Security Council. In December 2003, the parliament incorporated most provisions of the LFO into the Constitution via the 17th Amendment. This amendment endorsed General Musharraf for a five year term as President and provided immunity for his official acts following his assumption of power in October 1999. (Note: In order to secure the support for the 17th Amendment from the Muttahida Majlis-e Ammal, the coalition of Islamic parties, Musharraf pledged to retire as Chief of Army Staff by the end of 2004. Key MMA leaders, particularly Jamaat-I Islami Amir Qazi Hussain Ahmed, consider the President's failure to honor this commitment an unforgivable political betrayal. End note.)

¶7. (U) The president's constitutional term of office is five years. The starting date of President Musharraf's current term is a matter of debate: legal analysts disagree as to whether his current five-year term started in May 2002 (the date Musharraf was sworn-in after the 2002 referendum) or December 2003 (the date Musharraf was affirmed by the electoral college).

¶8. (C) The Constitution limits the President to two terms of office. President Musharraf's legal advisors can plausibly argue that he is currently serving his first term as a constitutional president. (Note: His official biography describes his civilian title/position before becoming President as "Chief Executive." End note.) Should Musharraf

be re-elected for a second five-year term, he could remain in office until 2012-2013. Although he has not made any definitive public announcement, Musharraf is widely assumed to want to serve another five-year term as President. Certainly the leadership of the governing Pakistan Muslim League (PML) has encouraged him to take this course and Musharraf has done nothing to dissuade them.

Basics 103: The Provinces

¶9. (U) Pakistan's four provinces are governed by popularly-elected provincial assemblies and governors appointed by the President. Aside from their role in the electoral college that elects the federal President, the provincial assemblies are primarily focused on local matters. They do not have true "power of the purse"; their role is limited to approving programmatic and spending schemes prepared by the provincial government before they are presented to the center for approval.

¶10. (SBU) The provincial assemblies' role in the electoral college has garnered increased attention recently, as opposition parties have signaled that they would resign from the National and Provincial Assemblies if President Musharraf were to seek early re-election, thus denying him the quorum needed to convene the electoral college. Currently, the opposition has the power to force the dissolution of only the NWFP Assembly, which would not be enough to block Musharraf's re-election, constitutionally or politically. (Note: Federal Information Minister Durrani recently stated that even the dissolution of the both the Balochistan and NWFP

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Assemblies would be no impediment to convening the electoral college. End note.) A show down over this issue, however, would alienate the opposition and poison the environment for a legitimate election.

Basics 104: Electoral Calendar

¶11. (U) The current National Assembly was inaugurated on November 16, 2002; its mandate will expire on November 15, 2007. The Constitution stipulates that National Assembly elections should take place within a 90-day window: no earlier than 30 days before or 60 days after the Assembly's mandate expires. This would place the date for National Assembly elections between December 16, 2007 and January 15, 2008.

¶12. (U) As the Constitution requires that the Assembly be dissolved for 90 days before the election, post anticipates that the President would dissolve the Assembly sometime between September 17 and October 17, 2007. Following the Assembly's dissolution, the president appoints a caretaker prime minister who, in turn, appoints a caretaker cabinet. Members of this interim cabinet are disqualified from contesting the election. These provisions governing the National Assembly's timing, dissolution and caretaker leadership also apply to concurrent assembly elections in the provinces.

¶13. (C/NF) Musharraf has long maintained that he wants the current National Assembly to complete its full five-year term. Indeed, he views this as one of his credentials as a democrat, remarking frequently that the current Assembly will be the first in Pakistan's history to complete its full constitutional tenure. There is spirited debate in Pakistani political circles on whether Musharraf should seek re-election from the sitting National Assembly or wait until a new Parliament is seated after National Assembly elections. Opposition politicians, who view the current Assembly as stacked in Musharraf's favor, argue that re-election by the sitting members would be illegitimate. The current Assembly is a known commodity and therefore perhaps the safer choice

for a re-election vote, but some opposition parties have vowed to deny Musharraf a quorum by resigning their seat if he tries that route. Delaying until a new Assembly is seated will raise the temperature of those elections, increasing the stakes and incentive for rigging. Musharraf's decision will ultimately be a matter of political judgment; to date, post's interaction with his political advisors suggest that they remain divided on the best course of action. The Supreme Court may be asked to rule on whether the election of the president will fall to the current or the future Assembly, but its credibility on such politically-charged matters is minimal.

BODDE